

**Testimony of Richard Jerome, Project Manager
Public Safety Performance Project, Pew Center on the States
Michigan Senate Judiciary Committee, March 2, 2010**

My name is Richard Jerome, and I am the Project Manager for the Public Safety Performance Project of the Pew Center on the States. I want to thank Chairman Kuipers and the Senate Judiciary Committee for this opportunity to testify in support Senate Bill 827, introduced by Senator Cropsey, which will improve public safety in Michigan and reduce corrections spending over the next five years.

The Pew Charitable Trusts is a public charity with over five decades of experience in making successful social investments that return results. Pew applies a rigorous analytical approach to improve public policy, inform the public and stimulate civic life. The Pew Center on the States develops research and strategic campaigns to help states identify and advance fiscally-sound policies, provide a return on investment to taxpayers and help our nation tackle its toughest policy questions. We work on early education, sentencing and corrections, children's dental health, budget and management practices, election reform and economic competitiveness. With respect to criminal justice, the Public Safety Performance Project helps states advance fiscally sound, data-driven sentencing and corrections policies that protect public safety, hold offenders accountable and control corrections costs.

In Michigan, we have been pleased to work with the Council of State Governments' Justice Center and Michigan's state leaders over the last 18 months. As Marshall Clement noted in his statement, this has been a bi-partisan and inter-branch effort, where CSG has worked closely with the Working Group to identify policy options based on evidence, research and analysis. And Senators Cropsey and Kuipers have been critical members of the Working Group, along with Representatives Alma Wheeler Smith and Mark Meadows. Pew has been assisting

several states, including Michigan, Texas, Kansas, South Carolina, Pennsylvania and Virginia—states led by Republicans and Democrats alike—in taking a hard look at the correctional system and finding new approaches. As states are looking at corrections as a target for budget savings, we need to think not only about weathering the current storm through short term savings, but also as a chance to rethink and improve our sentencing and corrections system.

I would like to focus on two areas where Michigan's criminal justice system is particularly remarkable, even unique. The first is that even in the face of Michigan's harsh fiscal crisis, the state has continued to reinvest in recidivism reduction efforts in 2009 and 2010. The policy options developed by the Working Group included three principle strategies. The first was deterring criminal activity by supporting local law enforcement, such as reducing the state's crime lab backlog; the second was to lower recidivism through efforts addressing high-risk probationers; and the third was to reduce spending on corrections so that funds would be available for reinvestment in the future. While other states are eliminating recidivism reduction programs and reducing the resources for reentry and community corrections, Michigan is going about it in the right way. Certainly Senator Cropsey is much more familiar with these efforts than I am, but I would like to contrast what Michigan has done to what has happened in some other states.

- \$2.8 million in federal Byrne grant funding is to be used to reduce the backlog at the state crime lab. An additional \$5 million in the 2010 budget was provided to offset the closing of the Detroit crime lab.
- For the FY2010 appropriations, the state is using over \$50 million in stimulus funding to support local law enforcement. In addition to the Recovery Act Byrne grant funding (\$25.8 million) that goes directly to local law enforcement agencies, \$23.9 million in

stimulus funding is being allocated for local competitive grants for multijurisdictional to task forces, community policing and community prosecution, and problem-solving courts.

- \$7.3 million was invested for 175 additional parole agents, and 2000 new GPS tethers, or ankle bracelets.
- Another \$22 million in new state funding is directed at improving and increasing reentry programming.
- The 2010 budget also includes \$1 million in new funding to establish High-Risk Probationer Pilot projects to reduce re-arrest rates among high risk probationers.

Let me compare that to what is happening in a number of other states. In July 2009, the Vera Institute of Justice put out a report that examined the fiscal crisis in state corrections. Thirty seven states responded to Vera's survey and data gathering. Vera found that of those 37 states, 20 states have eliminated or reduced programs or discontinued contracts for programming.

Some examples include:

- In Kansas, a national leader in community corrections, treatment programs in the community were severely impacted, with 80 percent of substance abuse treatment slots and over half of sex offender treatment slots eliminated. Some in-prison academic and vocational education programs were also eliminated. The state is trying to restore some of that funding, including by using federal Byrne grant funding.
- Just this year, Oklahoma's in-prison rehabilitation programs have been significantly limited. Three facilities eliminated 275 substance abuse treatment beds, two

facilities ended sex offender treatment, and four facilities cut their job training programs.

- Delaware reduced its funding for substance abuse treatment programs.
- In October, California officials announced cuts of \$250 million annually from rehabilitation services, mostly from reentry programs in the state's prisons.
- Washington State cut funding for housing and other transitional services for offenders reentering the community.

The second area I want to focus on is the state's sentencing system, in particular its minimum and maximum sentences. Michigan has "truth in sentencing," so when a judge issues a sentence in the courtroom, the offender must serve 100 percent of that court-ordered sentence. But to a remarkable degree, that sentence does not tell the victim, or the Department of Corrections, how long that offender will serve in prison, because the judge does not set the maximum sentence. Instead, the maximum sentence is set by the particular criminal offense statute, and the decision for how long an offender will serve is in the hands of the Parole Board.

The Parole Board in Michigan has remarkable discretion and authority to determine the length of an inmate's stay, perhaps more than in any other state. That is because of the wide range between the court ordered minimum sentence and the statutory maximum sentence. On average, the maximum sentence in Michigan is three times the length of the minimum sentence. Burglary is a good example. CSG found that the average sentence for burglary was 3.7 years. The statutory maximum sentence is 15 years. So an offender who is sentenced to four years, for example, could serve anywhere from four years, his first eligible release date, to 15 years (the statutory maximum), depending on the decisions of the Parole Board. CSG did some comparisons of time served in Michigan to national data on time served in prison. It found that,

in the case of robbery, for example, Michigan prisoners spent 52 percent longer in prison than those nationally.

CSG's analysis found that while the average minimum sentence imposed by Michigan judges for various violent crimes is comparable to the average length of incarceration for persons nationally, offenders sentenced to prison in Michigan for a variety of violent crimes stay in prison considerably longer than is the case nationally.

There are no other states with this kind of sentencing system. One interesting comparison is North Carolina. In 1993, North Carolina passed the Structured Sentencing Act, which established a sentencing guidelines system and truth in sentencing. Judges must impose a sentence within the sentencing guideline grid, and the offender must serve 100 percent of the minimum sentence, just as it is in Michigan. But the maximum sentence is set by the judge at 120 percent of the minimum sentence. New Hampshire is another state that also requires offenders to serve 100 percent of the judge's minimum sentence. But the judge then also sets the maximum sentence, tailored to the specifics of the case.

This is where Senate Bill 827 comes in. As Marshall has emphasized SB 827 provides more structure and predictability regarding how long offenders will serve in prison. It strengthens truth in sentencing by ensuring that prisoners serve no less than 100 percent and no more than 120 percent of their court-imposed sentence, unless they pose a high risk to public safety, in which case they could be held longer. This will give victims and the Department of Corrections more certainty in terms of how long the offender will actually serve, and it will reduce disparities in sentence lengths. It also provides judges more of a role in setting the time that an offender will serve rather than leaving it entirely up to the Parole Board.

SB 827 also provides for corrections savings. While the change in population is modest in the short term, because the legislation is prospective and not retroactive, it will provide \$35 million in savings over the next four years. It is a longer term solution that has broad support among criminal justice stakeholders, including the state's prosecutors and it was approved by the bipartisan Working Group in May of 2009. The bill's other provisions are also research-based and provide both savings and public safety. As Marshall has noted, over 1500 inmates in 2009 were released at their statutory maximum release date, with no supervision at all and no programs or treatment requirements. SB 827 requires a nine month period of supervision prior to the end of the maximum sentence, so these offenders can be monitored and supervised to protect public safety.

For these reasons, Pew fully supports SB 827 and urges the Committee to approve it. I would be happy to take any questions.